

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CLINT EDWARDS

Plaintiff,

v.

United States of America,  
Drew Gizzi DUSM,  
Robert Johnsten DSO,  
Michael Lewis Geo Guard,  
Frank Pena CSO, and  
John Does 1-10

Defendant(s).  
-----X

BIVENS  
COMPLAINT

Jury Trial

Yes: X NO:

20 NO: CV 7371

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1. LEGAL BASIC FOR CLAIM

A. Violation of my Federal Constitutional Right

2. PLAINTIFF INFORMATION

Clint Edwards  
19A1720  
Sing Sing Correctional Facility  
354 Hunter Street  
Ossining, New York 10562

3. PRISONER STATUS

A. Convicted and Sentenced Prisoner

4. DEFENDANTS INFORMATION

Defendant 1: United States of America  
1600 Pennsylvania Ave. N.W.  
Washington, D.C. 20500

Defendant 2: Drew Gizzi  
DUSM  
300 Quarropas Street  
White Plains, N.Y. 10601

Defendant 3: Robert Johnsten  
DSO  
300 Quarropas Street  
White Plains, N.Y. 10601

Defendant 4: Michael Lewis  
GEO Guard  
300 Quarropas Street  
White Plains, N.Y. 10601

Defendant 5: Frank Pena  
CSO  
300 Quarropas Street  
White Plains, N.Y. 10601

Defendant 6: John Does 1-10  
300 Quarropas Street  
White Plains, N.Y. 10601

5. STATEMENT OF CLAIM

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A. Place of occurrence: The Federal Courthouse in White Plains N.Y.

B: Date of occurrence: November 30, 2018

FACTS

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1. On November 30, 2018, I was brought to the Federal Courthouse in White Plains, N.Y. to get sentence for my federal case. I was place in a holding cell until they call my case. When my case was call I was brought to the courtroom by 3 employees that were Marshalls.

2. When I got to the courtroom I had my cuffs and leg cuffs remove even though the Marshalls knew I was facing a lot of time and have a serious mental health conition.

3. After the judge state how many months I was getting sentence to I start adding up the months to years and when I finally added it all up and knew I got 20 years I black out. I remember yelling at the judge and D.A..

4. Then I came back to it while they were taking me down to the ground. Once I was down I stop any resistance that I was doing before. One of the many employees that where there told me to put my arms behind my back. I put my right arm back first and then my left arm. While putting my left arm behind my back I felt someone grabed it, and strighten it out. Then I felt someone hit it and then a pop. At this time I knew my arm was broken.

5. They sat me up and I told the employees that my arm was broken. Someone called for a ambulance and I was brought to Westchester Medical Center in Valhalla, N.Y.. While there I got a X-RAY done and was told by the doctor that I had subtain a broken left arm.

6. The defendants Drew Gizzi, Robert Johnsten, Michael Lewis, Frank Pena, and John Does 1-10 violate my 8th amendant right of unsual cruel punishment when they used excessive force and broke my left arm. In there training they are taught how to subdue a person without a injury happening. While I was down I was subdue and wasn't fighting or refusing any of there orders so that shouldn't have happen and by it happening they used excessive force. The defendants were also deliberate indifference to my health when they broke my arm and left me in extreme pain.

7. The defendant United States of America violate my 8th amendant right of unsual cruel punishment of excessive force when they did not properly train there employees to subdue a person without there being a injury. They were also deliberate indifference to my health when one of there employees broke my left arm and left me in extreme pain.

8. I will be adding a email between Drew Gizzi and Brain Osullivan on the incident and a Court Facility Incident Report written by James Conn, CSO. These two docments will be my EXHIBIT 1. I would of had add the footage but I dont know how I would get it to the court. It is with my family.

## 6. INJURIES

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Pain and suffering, emotional distress, and a broken left arm.

## 7. RELIEF

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I am seeking twenty million dollars. Ten million dollars in compensatory damages and another ten million dollars in punitive damages for the defendants to split.

EXHIBIT 1

From: OSullivan, Brian (USMS)  
 To: Smyth, Sean (USANYS)  
 Subject: Fwd: Clint Edwards Report (Judge Seibel White Plains)  
 Date: Tuesday, December 18, 2018 12:54:32 PM  
 Attachments: 25-2018-Prisoner Assault of USMS and CSO Personnel-11-30-2018.pdf  
 ATT000001.htm

Brian O'Sullivan  
 Deputy US Marshal  
 300 Quarropas Street  
 White Plains, NY 10601  
 [REDACTED]

Begin forwarded message:

From: "Gizzi, Drew (USMS)" <[REDACTED]>  
 Date: December 18, 2018 at 11:53:42 AM EST  
 To: "OSullivan, Brian (USMS)" <[REDACTED]>  
 Subject: RE: Clint Edwards Report (Judge

Sean,

Below are the requested reports.

Thanks

Brian

"At 1000, on 11/30/2018, DUSM Drew Gizzi, DSO Robert Johnsten, and GEO guard Michael Lewis escorted inmate Clinton EDWARDS (USMS#79278-054) to his sentence proceeding before USDJ Seibel. EDWARDS was known to have a history for violence. Towards the end of the proceeding at approximately 1115, EDWARDS stood up on his own accord, and told USDJ Seibel to hurry up so he could leave. DUSM Gizzi and DSO Johnsten stood up and moved towards EDWARDS. With the proceeding not over, USDJ Seibel continued speaking and was again interrupted by EDWARDS. EDWARDS moved towards the front of the defense table, simultaneously DUSM Gizzi repositioned himself between the judge and EDWARDS. EDWARDS was ordered repeatedly by DUSM Gizzi and DSO Johnsten to follow them back into the cell block. EDWARDS, now taking up a boxing style stance refused to follow the lawful orders and emplaced himself in front of the jury box. EDWARDS yelled to his mom who was standing in the gallery, to leave the courtroom. EDWARDS stated to DUSM Gizzi and DSO Johnsten not to put their hands on him. He then took an even more aggressive stance, raising his hands further up his body and slightly cocking his arms back. At this point he yelled at AUSA Grossman, whom was standing in the gallery near defense counsel, exclaiming she was a "bitch" and subsequently lounged towards her desk. As EDWARDS made this quick and aggressive movement, he was grabbed simultaneously by DUSM Gizzi and DSO Johnsten. EDWARDS was taken backwards, flinging papers into the air from the prosecution's desk, and landing on the ground with DUSM Gizzi and DSO Johnsten still holding onto him.

# EXHIBIT 1

Multiple CSOs responded, applying restraints to his legs and arms. The incident at this point became calm, and EDWARDS was brought up to a sitting position, with his hands handcuffed behind him. CSO Frank Pena received a cut on his hand during the restraint application, and was soon thereafter brought to a medical facility. While still sitting, EDWARDS was mentioning that his arm was broken, at which time a CSO radioed for medical aid and transport. An ambulance soon after arrived, and was transported to Westchester County medical facility under the escort of multiple Deputy US Marshals"

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From: OSullivan, Brian (USMS)  
Sent: Monday, December 17, 2018 3:48 PM  
To: Gizzi, Drew (USMS) <[REDACTED]>  
Subject: Clint Edwards Report (Judge Seibel White Plains)

Good Afternoon Gizzi,

Can you forward me any reports that were written in regards to Clint Edwards.

We are working with the USA's office and plan to prosecute.

Thanks,

Sully

Brian O'Sullivan

Deputy US Marshal

300 Quarropas Street

White Plains, NY 10601

[REDACTED]

EXHIBIT 1

U.S. Department of Justice  
United States Marshals Service

# Court Facility Incident Report

INSTRUCTIONS: Use Form CSO-003 to report disruptive incidents in the courthouse. See last page for detailed instructions. Submit completed report to the District Judicial Security Inspector for notification.

1. DATE OF REPORT: 11/30/2018	2. DATE OF INCIDENT: 11/30/2018	3. TIME OF INCIDENT: 11:05 hrs	4. GSA BUILDING NO.: 54-L
5. BUILDING NAME: Charles L. Briceant U.S. Courthouse		6. BUILDING ADDRESS: 300 Quarropas Street, White Plains, NY 10601	
7. WAS SUBJECT DETAINED? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	8. REPORTING DISTRICT: Southern District of New York (SDNY)		9. REPORTED BY: LCSO James R. Conn
10. TYPE OF INCIDENT (Check applicable box):			
<input type="checkbox"/> Alarm Activation <input checked="" type="checkbox"/> Assault <input type="checkbox"/> Bomb Threat <input type="checkbox"/> Contraband <input type="checkbox"/> Disruptive Person <input type="checkbox"/> Forced Entry <input type="checkbox"/> Illegal Weapon <input type="checkbox"/> Malfunctioning Equipment (alarms, elevators, garage doors, security lighting, etc.)			
<input type="checkbox"/> Medical Emergency <input type="checkbox"/> Missing Property <input type="checkbox"/> Open/Unsecured Doors <input type="checkbox"/> Property Damage <input type="checkbox"/> Security Breaches <input type="checkbox"/> Shooting <input type="checkbox"/> Suspicious Individuals on Perimeter <input type="checkbox"/> Suspicious/Unattended Package			
<input type="checkbox"/> Suspicious Vehicles (Perimeter Areas) <input type="checkbox"/> Unauthorized Persons <input type="checkbox"/> Vehicle Break-Ins/Burglaries <input type="checkbox"/> Other (Describe):			
11. CHECK APPLICABLE BOX:			
<input checked="" type="checkbox"/> Initial Report <input type="checkbox"/> Follow-Up Report <input type="checkbox"/> Addendum - Initial Report Dated:			
12. INCIDENT DESCRIPTION (Details should cover who, what, where, when and how):			
<p>On 11/30/2018, at approximately 11:05 hrs, United States Marshals Service (USMS) prisoner Clinton Edwards (USMS #79278-054) was before Hon. Cathy Seibel for sentencing. Upon being sentenced to 240 months in Jail, Edwards became agitated and left the chair he was seated in. Edwards was yelling loudly at Judge Seibel and others in the courtroom and he repeatedly ignored the instructions of USMS personnel Drew Gizzi and Robert Johnson to return to his seat. At some point, USMS personnel found it necessary to physically restrain Edwards. Edwards and the USMS personnel fell to the floor where Edwards continued to resist efforts to control him. Court Security Officer's (CSO) Frank Pena, Anthony Mercurio and Walter Cook assisted the USMS personnel in gaining control of Edwards. CSO Pena sustained a cut on his hand and other injuries when he assisted USMS personnel in applying handcuffs to Edwards.</p> <p>It should be noted that, during the incident, Judge Seibel and other court personnel were instructed by CSO's to evacuate the courtroom and go into Judge Seibel's chambers, which they did.</p> <p>CSO Pena was advised by responding ambulance personnel to seek medical treatment at a hospital emergency room, which he did.</p> <p>There is nothing else to report regarding this incident. All is secure in White Plains.</p>			
Witnesses to Incident: USMS Drew Gizzi, USMS Bob Johnson, CSO Frank Pena, CSO Anthony Mercurio, CSO Walter Cook, LCSO James Conn			
White Plains Incident #25-2018			
13. REPORT PAGES:			
REPORT CONTINUED ON ATTACHED PAGES			
I hereby certify that the information stated herein is true, complete, and accurate to the best of my knowledge.			
14. SIGNATURE OF PREPARER: LCSO James Conn			14a. DATE: 11/30/2018
15. APPROVED BY - NAME: Angela B. [Signature]		15a. TITLE: District Site Supervisor	15b. DATE: 11/30/18
18. DISTRIBUTION: DISTRICT COTR - 1 COPY / OCS - 1 COPY			

Form CSO-003  
Rev. 09/12

USAO\_00055

SING SING CORRECTIONAL FACILITY  
354 HUNTER STREET  
OSSINING, NEW YORK 10562

NAME: Clint Edwards DIN: 19A1720

ALBA

3 SEP 2020

CHICAGO BRANCH

FOREVER / USA

FOURTEEN DAYS

To: Court Clerk

United States District Court  
Southern District of New York  
500 Pearl Street  
New York, N.Y. 10007

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PROSECUTOR

*[Handwritten signature]*

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\*LEGAL MAIL\*